

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AIR-CONDITIONING, HEATING,
AND REFRIGERATION
INSTITUTE, et al.,

Petitioners,

v.

UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY, et al.,

Respondents.

No. 21-1082
(c/w Nos. 21-1196 &
22-1062)

UNOPPOSED MOTION FOR ABEYANCE

Respondents, the United States Environmental Protection Agency and Michael Regan, in his official capacity as Administrator of the United States Environmental Protection Agency (collectively “EPA”), move this Court to hold these consolidated cases in abeyance for approximately six months (through June 18, 2024), as EPA progresses toward a relevant final agency action.

EPA has conferred with Petitioners, the Air-Conditioning, Heating, and Refrigeration Institute, the Association of Home Appliance Manufacturers, the Consumer Technology Association, the National Association of Manufacturers, and the National Electrical Manufacturers Association. This motion is unopposed.

Last month, EPA signed a proposed rulemaking under the Toxic Substances Control Act (“TSCA”), 15 U.S.C. §§ 2601 et seq., with respect to PIP (3:1), i.e., phenol, isopropylated phosphate (3:1). *See* 88 Fed. Reg. 82287 (Nov. 24, 2023). Public comments are due January 8, 2024. *Id.* at 82287. Holding these cases in abeyance would serve the interest of judicial economy because EPA’s final action respecting the proposed rule could obviate the need for further proceedings here or refine the questions presented.

Thus, EPA requests, for good cause shown, and without opposition from any party, that the Court hold these consolidated actions in abeyance through June 18, 2024, as the agency progresses toward a final agency action under TSCA regarding PIP (3:1). Prior to that date, the parties will meet and confer and file motion(s) to govern or other appropriate motion(s), which may include a renewed motion for abeyance until EPA takes final action.

Respectfully submitted,

TODD KIM
Assistant Attorney General

Dated: December 12, 2023

/s/ *Andrew J. Doyle*_____
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CERTIFICATE OF COMPLIANCE

This motion complies with the word limit imposed by Fed. R. App. P. 27(d) because it contains no more than 381 words. In addition, the motion has been prepared in a proportionally spaced typeface using Word 2013 in Times Roman Number 14.

____/s/ *Andrew J. Doyle*_____